

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erin Sweeney	Team: Squad #11	CCRB Case #: 201602057	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/13/2015 1:30 AM	Location of Incident: § 87(2)(b)	Precinct: 44	18 Mo. SOL 11/13/2016	EO SOL 11/13/2016	
Date/Time CV Reported Tue, 03/08/2016 1:27 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/11/2016 9:40 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Signorile	29637	949663	PBBX SU
2. SGT Jeffrey Heilig	01065	941886	PBBX SU

Officer(s)	Allegation	Investigator Recommendation
A.SGT Jeffrey Heilig	Abuse: Sgt. Jeffrey Heilig entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
B.POM Joseph Signorile	Abuse: PO Joseph Signorile entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)

Case Summary

On May 13, 2015, at approximately 1:30 a.m., at § 87(2)(b) in the Bronx, § 87(2)(b) § 87(2)(b) alerted Sgt. Jeffrey Heilig and PO Joseph Signorile of Bronx Borough Anti-Crime that he had just been robbed at gunpoint by a group of individuals at § 87(2)(b) § 87(2)(b) in the Bronx. Sgt. Heilig, PO Signorile, and § 87(2)(b) § 87(2)(b) drove to § 87(2)(b) § 87(2)(b), and § 87(2)(b) told the officers that he had been robbed in the basement of § 87(2)(b). Sgt. Heilig and PO Signorile entered § 87(2)(b) apartment, located at § 87(2)(b) in the Bronx (**Allegations A and B**). § 87(2)(b) who was inside of the apartment, was told to come outside with the officers. § 87(2)(b) identified § 87(2)(b) as one of the individuals who had robbed him. § 87(2)(b) was arrested and taken to the 44th Precinct stationhouse. § 87(2)(b) filed this complaint approximately ten months after the incident because he previously was unaware of the CCRB's existence.

There is no video footage in this case.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation because § 87(2)(b) was arrested and charged with: § 87(2)(b)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- On June 3, 2016, a Notice of Claim was requested from the New York City Comptroller's Office. The results will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[illegible]

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (Board Review 11).
- This is § 87(2)(b) second CCRB complaint. § 87(2)(b)
- Sgt. Heilig has been a member of service for nine years. There have been 13 allegations against him in five cases (including this one). There are no substantiations § 87(2)(g)
- PO Signorile has been a member of service for five years. There have been 15 allegations against him in five cases (including this one). In case number 201601216, a vehicle search, frisk, and search were substantiated; the CCRB recommended Command Discipline B, and the NYPD has yet to make a recommendation. There are no other substantiated allegations. § 87(2)(g)

Potential Issues

- § 87(2)(b) Unknown, who was present when the officers entered, could not be interviewed because none of the civilians knew her real name (§ 87(2)(b) is her street name), her contact information, or her whereabouts.
- § 87(2)(g) [REDACTED]
[REDACTED]

Findings and Recommendations

Allegations not pleaded

- The investigation acknowledged that the civilians stated that the door, which remained on its hinges, was partially broken: the doorknob, the latch, and the molding surrounding the door detached. § 87(2)(g)

Allegation A –Abuse of Authority: Sgt. Jeffrey Heilig entered and searched § 87(2)(b) § 87(2)(b), in the Bronx.

Allegation B –Abuse of Authority: PO Joseph Signorile entered and searched § 87(2)(b) § 87(2)(b) in the Bronx.

It is undisputed that Sgt. Heilig and PO Signorile entered the apartment and arrested § 87(2)(b) § 87(2)(b) is a § 87(2)(b) old black male who stands 5’6” tall, weighs 145 pounds, with black hair and brown eyes. On May 13, 2015, he was wearing a white tee shirt (Board Review 2). § 87(2)(b) stated that at some time between 1:00 a.m. and 1:30 a.m., he went to the bodega that is connected to § 87(2)(b) § 87(2)(b) walked approximately three steps from the door to the apartment building to the 24-hour window and purchased a cigar. He then returned to § 87(2)(b) apartment, where § 87(2)(b) was also entertaining two women, § 87(2)(b) and an individual known as § 87(2)(b) § 87(2)(b) sat in a chair, added marijuana to his cigar, and started to smoke it. § 87(2)(b) was outside of the apartment for no more than one-to-two minutes. The only thing he did was buy the cigar from the male at the window, § 87(2)(b) § 87(2)(b). Approximately five minutes after § 87(2)(b) returned to the apartment, the door burst open. It was clear that the door had been kicked in. Two plainclothes officers, Sgt. Heilig and PO Signorile, entered the apartment. Sgt. Heilig approached § 87(2)(b) § 87(2)(b) who was sitting in a chair approximately ten feet away from the door, and said, “What is your name?” § 87(2)(b) said, “For what?” Sgt. Heilig responded, “Okay,” and grabbed § 87(2)(b) s right arm, pulled him out of the chair, walked him into the hallway, and placed him in handcuffs. Sgt. Heilig then walked him outside of § 87(2)(b) and made him stand on the steps in front of the building. “Look up,” Sgt. Heilig instructed § 87(2)(b) § 87(2)(b) as a light shined in § 87(2)(b) s face. Approximately four minutes later, he was placed inside of a marked police vehicle and transported to the 44th Precinct stationhouse. § 87(2)(b) § 87(2)(b) denied stealing anything from any individual on this date (Board Review 1).

§ 87(2)(b) stated that approximately five minutes after § 87(2)(b) returned from the bodega, § 87(2)(b) heard a knock at the door. § 87(2)(b) who was standing directly in front of the door, asked who was at the door. There was no answer. § 87(2)(b) never heard any voice on the outside of the door. § 87(2)(b) then opened the door slightly, and immediately closed it. § 87(2)(b) asked § 87(2)(b) who it was. § 87(2)(b) said the letter ‘C’ but before she could finish saying, “Cops,” the door swung open at that moment. After the officers took § 87(2)(b) outside of the building, the officers told § 87(2)(b) and § 87(2)(b) to step into the hallway. From where § 87(2)(b) was standing in the hallway, he could see inside of the apartment. He watched the officers and saw Sgt. Heilig and PO Signorile moved the chairs in the living room and lifted up the cushions in the chair where § 87(2)(b) had been sitting (Board Review 3).

§ 87(2)(b) stated that she when heard a knock on the door, she asked through the door, “Who?” No one answered. She did not hear any sound on the other side of the door. She said, “Yo?” and no one answered. § 87(2)(b) opened the door approximately six inches to one foot. She saw a white face she did not recognize and closed the door all of the way. Before she could say, “Cops,” a she heard a loud boom. The door had been kicked open, and it swung open on its hinges. When § 87(2)(b) went into the hallway, she looked inside of the apartment to see what the officers were doing. PO Signorile had lifted the cushions on the couches where § 87(2)(b) and § 87(2)(b) had been sitting. Sgt. Heilig searched around and underneath the chairs in which § 87(2)(b) and § 87(2)(b) had been sitting. § 87(2)(b) thought that the officers were looking for marijuana, but § 87(2)(b) and her friends had smoked all of their marijuana, so there was no

marijuana left in the ashtrays—just ash and paper. The officers only searched in the living room where § 87(2)(b) and her friends had been sitting. The officers did not find any contraband inside of the apartment. To § 87(2)(b)'s knowledge, § 87(2)(b) had not committed any crime prior to the officers' arrival (Board Review 4).

§ 87(2)(b) said in his phone statement that at approximately 1:30 a.m., he stopped to urinate at the corner of § 87(2)(b). An individual tapped him on the shoulder and told him to follow him. The individual led him to the basement of § 87(2)(b). A male pointed a gun at § 87(2)(b) while he took \$500 out of his pocket and his cell phone. This male told § 87(2)(b) that he was very big and would have to "put the whole clip in him" if he did not hand over his property. The male was accompanied by § 87(2)(b) who helped the male with the gun remove items from § 87(2)(b)'s pockets, another male, and two females. The group then drove off in a vehicle. § 87(2)(b) flagged down Sgt. Heilig and PO Signorile and described the individuals who had robbed him, including § 87(2)(b) who had assisted removing items from his pockets, as a black male in his late 20s who stood approximately 5'7" tall and was slim and wearing a white tee shirt. When § 87(2)(b) came back to § 87(2)(b) with the officers, he pointed out the building where he had been robbed. § 87(2)(b) initially stated that he did not see § 87(2)(b) outside, but then said that he thought he saw § 87(2)(b) wearing a white tee shirt, outside on the stoop of § 87(2)(b) briefly before he ran into the building. § 87(2)(b) did not say or do anything to the officers or § 87(2)(b) when he was outside. When the officers saw a black male wearing a white shirt going into the house where § 87(2)(b) had been robbed, they followed him. The officers entered the same building where § 87(2)(b) had been robbed, and emerged with § 87(2)(b) after several minutes. § 87(2)(b) was not sure how the officers knew to go in the building and get § 87(2)(b). Once § 87(2)(b) was back outside with the officers, the officers asked § 87(2)(b) if he recognized § 87(2)(b) and § 87(2)(b) said that he did recognize him as one of the males who had been in the group with the male with the gun. This was the first that § 87(2)(b) said that he recognized § 87(2)(b). § 87(2)(b) then made a gun-shooting gesture at § 87(2)(b) with his fingers. § 87(2)(b) did not recall if § 87(2)(b) was in handcuffs when the officers brought him outside of the house (Board Review 6).

§ 87(2)(b) who was working at the deli window, said in his phone statement that § 87(2)(b) came and bought soda from him. § 87(2)(b) then left. § 87(2)(b) then saw an unmarked black vehicle arrive, and officers exited the vehicle. Although § 87(2)(b) did not see the officer enter the building, he saw that the officers went toward § 87(2)(b) apartment building and approximately fifteen minutes later, emerged with someone. Only later did § 87(2)(b) learn that it was § 87(2)(b) who was removed from the building. § 87(2)(b) never saw § 87(2)(b) steal an iPhone from someone. He never saw § 87(2)(b) with a gun (Board Review 5).

Sgt. Heilig stated that as he was approaching a red light at the intersection of East 169th Street and Third Avenue, § 87(2)(b) jumped out of his black SUV and flagged down the officers. § 87(2)(b) said that he had just been robbed at gunpoint by several men and women at § 87(2)(b). Sgt. Heilig only recalled that § 87(2)(b) told them that they were dark-skinned individuals. When Sgt. Heilig, PO Signorile, and § 87(2)(b) arrived at the intersection, § 87(2)(b) stated that he had been in front of the bodega at § 87(2)(b) and the males and females had pulled him into the basement underneath the house attached to the bodega. § 87(2)(b) did not provide Sgt. Heilig with any additional descriptions of the perpetrators. § 87(2)(b) was standing alone directly in front of § 87(2)(b).

smoking a cigarette. He was a dark-skinned black male in his 40s who stood approximately 5'8" tall, was thin, and was wearing a white tee shirt. § 87(2)(b) said almost immediately after they arrived at the intersection, "Officers, that's the male who robbed me... and he just made [a shooting gun gesture with his hand and finger] at me." Sgt. Heilig did not see § 87(2)(b) make this gun-like gesture. § 87(2)(b) then walked inside of § 87(2)(b). Sgt. Heilig estimated that § 87(2)(b) walked inside of his apartment approximately 30 seconds after Sgt. Heilig first observed § 87(2)(b) on the steps. Almost immediately after he entered, the blinds in the window on the front of the building on the first floor of § 87(2)(b) moved, and it looked like people inside were peeking out of the windows.

Sgt. Heilig and PO Signorile entered § 87(2)(b) and went to the first apartment on the right side of the hallway because this is where the moving blinds were. The officers knocked on the door. § 87(2)(b) answered the door after a few seconds and the officers said, "Miss, how are you doing? Police." § 87(2)(b) opened the door wide, and he saw § 87(2)(b) sitting in a chair, approximately 10-15 feet away from Sgt. Heilig. Sgt. Heilig said to him, "Buddy, do me a favor and come here." Sgt. Heilig made a waving gesture that signaled to § 87(2)(b) that he wanted him to approach. Sgt. Heilig was still standing in the hallway. § 87(2)(b) did not say anything or do anything in response; he ignored Sgt. Heilig's command. Sgt. Heilig asked § 87(2)(b) a second time to come with him. § 87(2)(b) did not move. § 87(2)(b) tried to close the door on the officers. Sgt. Heilig said, "Miss, hold on one second." PO Signorile, Sgt. Heilig, or both officers lifted a hand and prevented the door from closing. Sgt. Heilig and PO Signorile stepped inside of the apartment, and Sgt. Heilig asked § 87(2)(b) to come with them. Sgt. Heilig entered the apartment without securing a warrant because § 87(2)(b) had identified § 87(2)(b) as one of the individuals who had robbed him, and § 87(2)(b) had fled to the apartment, and when § 87(2)(b) opened the door, Sgt. Heilig could see § 87(2)(b) inside of the apartment. Additionally, Sgt. Heilig did not secure a warrant for the apartment because this was a violent crime that needed to "be handled quickly." § 87(2)(b) stood up after the officers gave one or two commands inside of the apartment. Sgt. Heilig or PO Signorile (he did not recall which one) searched in and around the chair in which § 87(2)(b) was sitting. The chair was searched for a "couple seconds," to ensure that § 87(2)(b) had not placed a weapon or any property inside of the chair. Sgt. Heilig did not recall searching any other part of the apartment, and he did not recall another officer searching any other part of the apartment for any reason. Sgt. Heilig and PO Signorile walked § 87(2)(b) out of the apartment and then out of the building. A show-up was conducted after § 87(2)(b) initially identified § 87(2)(b) as the perpetrator because Sgt. Heilig wanted to be certain that § 87(2)(b) was positively identifying § 87(2)(b). § 87(2)(b) identified § 87(2)(b) a second time as one of the individuals who had robbed him earlier in the day. At this point, § 87(2)(b) was considered under arrest, and he was placed in handcuffs. Sgt. Heilig estimated he was on the scene for less than five minutes, and was in the apartment for less than one minute. Sgt. Heilig stated that he did not recall if other officers arrived at the scene at any point (Board Review 7).

PO Signorile was consistent with Sgt. Heilig's testimony regarding: § 87(2)(b) flagging them down, returning to the scene, § 87(2)(b)'s certainty that § 87(2)(b) was one of them men who had robbed him, and that § 87(2)(b) made the gun-pointing gesture with his hand and finger. PO Signorile then turned and made eye contact with § 87(2)(b). Sgt. Heilig and PO Signorile immediately walked toward § 87(2)(b), at which point § 87(2)(b) turned and entered his building before the officers could reach him. PO Signorile also

saw the blinds move on the first floor. When § 87(2)(b) answered, PO Signorile could see § 87(2)(b) sitting in the living room, and Sgt. Heilig prevented § 87(2)(b) from closing the door by pushing the door with his arm. Sgt. Heilig and PO Signorile entered the apartment and walked toward § 87(2)(b). PO Signorile entered the apartment without a warrant because a violent crime had been committed and he needed to arrest the perpetrator. Sgt. Heilig asked § 87(2)(b) to step outside with them, and § 87(2)(b) complied. PO Signorile searched the chair where § 87(2)(b) was sitting to ensure that there were no weapons. PO Signorile only searched in the area where § 87(2)(b) could have reached to hide something. Nothing was recovered, and PO Signorile never searched anywhere else. He never saw another officer search the apartment. § 87(2)(b) was brought outside of the building with PO Signorile and Sgt. Heilig, and § 87(2)(b) positively identified him for a second time (Board Review 8).

Absent a warrant or consent, six factors must be considered to determine if exigent circumstances apply to an entry: 1) the gravity or violent nature of the offense; 2) a reasonable belief that the suspect is armed; 3) probable cause that the suspect committed the crime; 4) a strong reason to believe the subject is in the premises to be entered; 5) the likelihood that the suspect will flee; 6) the peaceful circumstances of the entry People v. McBride 14 N.Y.3d 440 (2010) (Board Review 12). In United States v. Hernandez, 941 F.2d 133 (2d Cir. 1991), the court permitted a limited protective sweep of the defendant's apartment where he was arrested to ensure that there were no weapons with the grab area of the defendant to ensure the officers' safety because the officers had a reasonable belief, based upon specific and articulable facts, that the defendant posed a threat (Board Review 14).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Squad: 11

Investigator: _____

	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date